

MARK D. FOWLER, Bar No. 124235  
[mark.fowler@dlapiper.com](mailto:mark.fowler@dlapiper.com)  
CLAYTON THOMPSON (Pro Hac Vice)  
[clayton.thompson@dlapiper.com](mailto:clayton.thompson@dlapiper.com)  
DAVID ALBERTI, Bar No. 220625  
[david.alberti@dlapiper.com](mailto:david.alberti@dlapiper.com)  
CHRISTINE K. CORBETT, Bar No. 209128  
[christine.corbett@dlapiper.com](mailto:christine.corbett@dlapiper.com)  
YAKOV M. ZOLOTOREV, Bar No. 224260  
[yakov.zolotorev@dlapiper.com](mailto:yakov.zolotorev@dlapiper.com)  
CARRIE L. WILLIAMSON, Bar No. 230873  
[carrie.williamson@dlapiper.com](mailto:carrie.williamson@dlapiper.com)

DLA PIPER US LLP  
2000 University Avenue  
East Palo Alto, CA 94303-2214  
Tel: 650.833.2000  
Fax: 650.833.2001

Attorneys for Plaintiff-Counterclaim Defendant,  
Sun Microsystems, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SUN MICROSYSTEMS, INC.

Plaintiff-Counterclaim Defendant,

v.

NETWORK APPLIANCE, INC

Defendant-Counterclaim Plaintiff.

CASE NO. C-07-05488-EDL

**JOINT CLAIM CONSTRUCTION  
STATEMENT AND PREHEARING  
STATEMENT**

Claim Construction Hearing:  
Date: October 31, 2008

Pursuant to Northern District of California Patent Local Rule 4-3, Sun Microsystems, Inc. ("Sun") and NetApp, Inc. (formerly Network Appliance, Inc.) jointly submit this Joint Claim Construction and Prehearing Statement.

**I. JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT AND EXHIBITS ACCOMPANYING THIS SUBMISSION**

Pursuant to Patent Local Rule 4-2(c), the parties met and conferred regarding the submission of this Joint Claim Construction and Prehearing Statement. The proposed constructions and supporting evidence are identified in **Exhibit A**, attached hereto.<sup>1</sup>

Exhibit A-1: Proposed Constructions and Supporting Evidence for the '417 patent

Exhibit A-2: Proposed Constructions and Supporting Evidence for the '720 patent

Exhibit A-3: Proposed Constructions and Supporting Evidence for the '873 patent

Exhibit A-4: Proposed Constructions and Supporting Evidence for the '591 patent

Exhibit A-5: Proposed Constructions and Supporting Evidence for the '385 patent

Exhibit A-6: Proposed Constructions and Supporting Evidence for the '987 patent

Exhibit A-7: Proposed Constructions and Supporting Evidence for the '855 patent

Exhibit A-8: Proposed Constructions and Supporting Evidence for the '528 patent

Exhibit A-9: Proposed Constructions and Supporting Evidence for the '787 patent

Exhibit A-10: Proposed Constructions and Supporting Evidence for the '012 patent

Exhibit A-11: Proposed Constructions and Supporting Evidence for the '937 patent

**II. CLAIM CONSTRUCTION HEARING AND BRIEFING SCHEDULE**

The Court's April 2, 2008 Case Management Scheduling Order sets the following schedule for claim construction:

Opening Briefs: September 12, 2008

Responsive Brief: September 26, 2008

Reply Brief: October 10, 2008

Tutorial: TBD

---

<sup>1</sup> The parties have agreed to jointly submit a Supplemental Joint Claim Construction Statement identifying their respective proposed constructions and supporting evidence concerning three additional terms identified by NetApp: "periodically verifying the integrity of the data stored in each of said identified dedicated partitions," ('012 patent), "reading data stored in each of said identified dedicated partitions," ('012 patent), and "data access request," ('787 patent). Consequently, these terms are not included in the appended exhibits. Moreover, because both parties updated certain of their claim construction positions shortly before submission of this Joint Statement, they have agreed to meet and confer regarding the inclusion of contentions and/or evidence responsive to those modified positions in the Supplemental Statement.

1 Claim Construction Hearing: October 31, 2008

2 The parties anticipate that the claim construction hearing will take one day.

3 **III. LOGISTICS**

4 The parties request a further case management conference to discuss whether a tutorial  
5 will be required, whether witnesses will be called during the claim construction hearing and the  
6 number of pages required for the opening claim construction briefs.

7  
8 Dated: August 7, 2008

9  
10 DLA PIPER US LLP

11 By: /s/ Christine K. Corbett

12 MARK D. FOWLER  
13 CLAYTON THOMPSON  
14 DAVID ALBERTI  
15 CHRISTINE K. CORBETT  
16 YAKOV M. ZOLOTOREV  
17 CARRIE L. WILLIAMSON

18 Attorneys for  
19 Sun Microsystems, Inc.

20  
21 Dated: August 7, 2008

22  
23 WEIL, GOTSHAL & MANGES LLP

24 By: /s/ Jill J. Ho

25 MATTHEW D. POWERS  
26 EDWARD R. REINES  
27 JEFFREY G. HOMRIG  
28 JILL J. HO

Attorneys for  
NetApp, Inc.